

Comment on Exposure Draft of the *Public Housing Tenants' Support Bill 2013*

**Legal Aid NSW Submission
to the
Department of Families, Housing, Community Services & Indigenous Affairs**

April 2013

About Legal Aid NSW

The Legal Aid Commission of New South Wales (Legal Aid NSW) is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW) to provide legal assistance, with a particular focus on the needs of people who are economically or socially disadvantaged.

Legal Aid NSW provides information, community legal education, advice, minor assistance and representation, through a large in-house legal practice and private practitioners. Legal Aid NSW also funds a number of services provided by non-government organisations, including 36 community legal centres and 28 Women's Domestic Violence Court Advocacy Services.

The Civil Law practice provides legal advice, minor assistance, duty representation and casework services to people throughout Sydney and in 13 regional offices. It has unique experience in delivering services to disadvantaged communities in a broad range of general law areas including administrative law and consumer credit law.

Legal Aid NSW welcomes the opportunity to make this submission to *Public Housing Tenants' Support Bill 2013*. If you would like to discuss its content further, please contact Lillian Leigh on 9765 4723 or email at Lillian.Leigh@legalaid.nsw.gov.au.

Submission

While Legal Aid NSW is supportive of measures taken by the government to prevent homelessness, it is submitted that the current draft bill contains a number of deficiencies.

1. Introduce tenant notification requirements

There is currently no requirement under the draft Bill for the Secretary to notify the tenants of a public housing lessor's request for deduction or the Secretary's decision to allow deduction. So while Factsheet 6 states that tenants as Centrelink Customers can access the normal course of appeal options (that is, through the Authorised Review Officer, the Social Security Appeals Tribunal and the

Administrative Appeals Tribunal), the clients may not be notified of the decision prior to the actual deduction for them to exercise their rights.

Legal Aid NSW submits that a requirement for the Secretary to notify tenants should be inserted to protect tenants' rights.

2. Current cap too high

While Legal Aid NSW agrees that there needs to be a cap on the deductible amount, it is submitted that the 35% cap (clause 7(1) (c)) is too high. Currently, Housing NSW has a 25-30% rule for rent assessment¹.

Legal Aid NSW routinely provides legal advice and assistance to people in financial hardship. It is our experience that the more limited a person's income, the more likely they are to turn to high interest loans such as payday loans to meet day to day expenses. By forcing a significant reduction of income, the position of tenants is potentially worse.

Legal Aid NSW submits that the cap for deductible amount be reduced.

3. Deduction of debts

Legal Aid NSW is concerned that the Bill allows a public housing lessor to seek deductions for debts, in addition to ongoing rent payments. Legal Aid NSW submits that only debts that are proven to exist, after independent review, should be recoverable under the provisions of this Bill.

4. No safeguards in relation to fees being passed on to tenants

Clause 16 allows the Secretary to charge Housing fees for this Scheme, but there are currently no safeguards to ensure this potential fee is not passed on to clients. We submit that such a protection should be inserted to protect the position of tenants.

Concluding remarks

Legal Aid NSW is grateful for the opportunity to provide these comments. Unfortunately, Legal Aid NSW did not have the opportunity to participate in any face-to-face consultation. Given the breadth of experience in social security and housing law within the agency, Legal Aid NSW would welcome an invitation to any future consultation regarding the Housing Payment Deduction Scheme.

¹ Tenancy Charges and Account Management Policy Supplement, Housing NSW, 18 March 2013.